

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DURAN IRVIN,

Plaintiff,

v.

Civil Action No. 04-10218-NMG

ANDREA CABRAL, et al.,

Defendants.

ORDER ON SCREENING PURSUANT
TO SECTIONS 1915(e)(2) AND/OR 1915A

Having completed the screening on the merits of plaintiff's complaint pursuant to Sections 1915(e)(2) and/or 1915A:

FINDINGS

1. The complaint is frivolous, malicious, or fails to state a claim upon which relief may be granted:

No ☐ Yes ☐ as to defendant(s)

2. The complaint seeks relief from a defendant or defendants who are immune from such relief:

No ☐ Yes ☐ as to defendant(s)

3. Section 1997e(g)(2) provides that:

"The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits."

42 U.S.C. § 1997e(g)(2).

Is the complaint sufficient to satisfy the pleading requirements for stating a cognizable claim and does the plaintiff have a reasonable opportunity to prevail on the merits against one or more defendants?

a. Yes ☐ The Court has so determined and found as to defendant(s):

b. No ☐ because the Court has determined that the complaint does not satisfy pleading requirements for stating a cognizable claim against:

☐ all defendants ☐ the defendant(s)

c. No ☐ because the Court has determined that the likelihood that plaintiff will prevail on the merits falls short of the "reasonable opportunity" standard of the statute, as to claims against:

☐ all defendants ☐ the defendant(s)

d. Cannot say

☒ It is not feasible for the Court to make a determination on these questions on the present record as to claims against:

☒ all defendants ☐ the defendant(s)

ORDERS

Based upon the foregoing:

1. The Clerk shall issue summonses and the United States Marshal serve a copy of the complaint, summons and this order as directed by the plaintiff with all costs of service to be advanced by the United States?

No ☐

Yes ☒

☒ as to all defendants

☐ only as to defendant(s)

2. The Clerk shall dismiss this action unless, on or before the 42nd day from the date of this Order, plaintiff has filed a submission showing good cause why the Court

should find that the pleading is sufficient to state a cognizable claim and that plaintiff will have a reasonable opportunity to prevail on the merits of plaintiff's claims against defendant(s)?

No ☒ Yes ☐ ☐ as to all defendants
☐ only as to defendant(s)

3. a. Although defendant(s) may not have been served with a summons and complaint, are the defendant(s) invited but not required to file an answer to aid the Court in reaching a prompt final disposition on the merits?

No ☐ Yes ☐ ☐ as to all defendants
☐ only as to defendant(s)

OR

- b. If the defendant(s) have been served with a summons and complaint, are the defendant(s) required to reply within the time specified in the summons?

No ☐ Yes ☒ ☒ as to all defendants
☐ only as to defendant(s)

9/16/04
DATE

s/ Nathaniel M. Gorton
UNITED STATES DISTRICT JUDGE